

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 251 OF 2004

A-1 Co-operative Housing Society
Limited, Mumbai .. Petitioner
versus
Vijay Hasmukhrao Bhayani & ors. .. Respondents

...

Mr.Desai with Ms.Geeta Shastri i/b M/s.Khilnani & Co.
for the petitioner.

Mr.D.P. Adsule AGP for respondent no.15.

Mr.Yogesh Oza respondent no.3 present in person.

CORAM : D.G. KARNIK, J

DATED : 5th September 2006

P.C.:

1. Heard Mr.Desai for the petitioner.
2. Mr.Desai for the petitioner submitted that the respondents had given an undertaking to the Court on 24th March 2004 which is recorded in the order of the

Court. He further submitted that despite the said undertaking the respondents have committed breach of the said undertaking and therefore they have committed contempt. The undertaking given to the Court on 24th March 2004 and recorded in paragraph no.2 of the order is to the following effect.

"The Respondents stated before the trial Court and have reiterated before me that they have not formed themselves into any society including the association by name A-1 Co-operative Housing Society Shop Owners' Association. They further reiterated that they are not collecting any money from any of the occupants of the said building. The Respondents however state that they have never and shall not in future obstruct ingress or egress, access to and possession of the Petitioner to and from the office premises of the society. They further state that they shall not obstruct the functioning of the society in any manner including the auditing of the accounts of the society."

3. Mr.Desai submitted that in breach of the said undertaking, respondents have been obstructing the functioning of the petitioner society and have thereby committed contempt. When asked about the acts of obstruction, Mr.Desai submitted that the respondents wrote a letter to the UCO bank to freeze the bank account of the petitioner society. However, Mr.Desai was unable to point out any averment in the petition to the effect that respondents wrote a letter to the UCO bank to freeze the bank account of the petitioner society. He was also unable to point out any letter allegedly written to the UCO Bank.

4. No other acts of obstruction in the functioning of the society were urged before me. In the circumstances, there is no merit in the petition which is hereby dismissed.

(D.G. KARNIK, J)